ADDENDUM
VI

SECTION 8 AND SECTION 202
PRESERVATION PROGRAMS

NOTE: There are separate checklists for each of the following programs:

- **Addendum I - LIHTC Program**
- **Addendum III - Special Needs Rental**
- **Addendum IV - Multi-Family Direct Lending/HOME Team Advantage**
- **Addendum V - Modified Pass Through Program**
- **Addendum VI - Section 8 and Section 202 Preservation Program**
- **Addendum VII - Section 236 Preservation Program**

Please use the checklist applicable to the program for which you are applying.

The following items **MUST** be submitted if applicable to the project and/or for points to be given to the project. To indicate each exhibit submitted, place a check mark in the box provided and return a copy of this checklist with your application. Each submitted exhibit must be tabbed with the appropriate corresponding number from the checklist. **APPLICANTS APPLYING FOR MORE THAN ONE TYPE OF FINANCING MUST INCLUDE ALL APPLICABLE CHECKLISTS' EXHIBITS.**

This checklist is to be used for the Section 8 and Section 202 Preservation Programs. Two copies of all exhibits are required for applications for these two programs.

EXHIBIT CHECKLIST

Addendum VI:

√	#	Section 8 and Section 202 Preservation Programs
	1	**A narrative description of the project** which includes the type of project; location; type of financing; tenants served, bedroom mix; local, federal or state subsidies; and other relevant information.
	2	**Land Control** - Documentation, signed by all applicable parties, in the form of warranty deed, exclusive option to purchase, land contract, etc., which evidences ability to maintain site control for 120 days from the date of application submission, with extensions available.
	3	**Site Utility Data:** - Submit utility calculations using the MSHDA Asset Management Division Utility Calculation format. Utility consumption data must be 90 days or less old. **You must submit both resident and development utility cost calculations.**
	4	**Appraisal and Rent Comp Study** – "As is" appraisal and acceptable rent comparability study. **Note:** Concerns noted with past rent comp studies include the overstatement of true market rents attainable at the subject property. Most Section 8 properties will not be functioning as "market" after rehabilitation because of ongoing rent and income restrictions. Appraisers need to make appropriate adjustments for location and past history/perception and use conservative estimates of market rents. **Two copies** of each must be submitted and dated within six months of application submission. **SUBMIT WITH THIS APPLICATION IF AVAILABLE. WILL BE REQUIRED DURING LOAN PROCESSING.**
	5	**Environmental Assessment** - Level 1 Environmental Assessment or, if necessary, a Level II with a remediation plan. Dated within six months of application submission. See Tab D for specific requirements. **SUBMIT WITH THIS APPLICATION IF AVAILABLE. WILL BE REQUIRED DURING LOAN PROCESSING.**
	6	**Mortgagee's Title Insurance Commitment** – a valid commitment setting forth all encumbrances on the property, together with copies of such encumbrances, and including 3.1 zoning and acceptable pending disbursement endorsements.
	7	**Surveyor's Certificate of Facts and the ALTA Survey** - Refer to MSHDA's Legal Form 025 and 026 for Surveyors Certificate and survey standards to be submitted. Ensure that any encumbrances of records are included. (TAB EE and TAB U)

EXHIBIT CHECKLIST

Addendum VI:

√	#	Section 8 and Section 202 Preservation Programs
	8a	**Zoning** - Documentation from the appropriate local official on official letterhead (dated within 60 days of application submission), identifying the address of the project, the property's current zoning designation and an explanation of whether or not the project is permitted under the zoning ordinance. For rehabilitation projects, a letter from the municipality stating that the zoning is compatible with the proposed use of the buildings and that the planned rehabilitation is permitted, will be required. **If the project is not currently properly zoned, what, if any, steps are in process to obtain proper zoning for the proposed development. The documentation must include a timetable for rezoning. If rezoning is required you must also submit 8b and 8c below.**
	8b	**Zoning Map – if rezoning is required.**
	8c	**A certified copy of the Community Zoning Ordinance – if rezoning is required.**
	9	**Certified copy of city or township charter**
	10	**Tax Abatement -** Proof of tax abatement for the term of the new loan and a certified copy of the granting municipality's tax abatement ordinance and any amendments to the ordinance.
	11	**Proof of Local Taxation Rate (if no tax abatement)** For acquisition/ rehabilitation a tax bill, along with a letter verifying there are not any mil increases or special assessments that do not appear on the bill, will meet this requirement.
	12	**Site Plan Approval** - For rehabilitation projects, a letter from the municipality indicating that the relevant board or commission of the municipality has reviewed the proposal, including the level of rehabilitation work to be completed, the site, and that no further plan approvals are necessary.
	13a	**Ownership Entity Formation –** Certified copy (dated within 30 days of application submission) of the certificate of limited partnership and any amendments on file with the Department of Labor & Economic Growth, Bureau of Commercial Services, and copy of limited partnership agreement with all amendments. **SUBMIT WITH THIS APPLICATION IF AVAILABLE. WILL BE REQUIRED DURING LOAN PROCESSING.**
	13b	**Owner Experience** – A completed **HUD Form 2530 Previous Participation Certificate must be submitted** for the **sponsor(s) In addition**, the **Owner Experience Form** on page 25 of the Primary Application **must be completed.**
	14	**Nonprofit/Ownership Documentation** – 1**) Certified copy** (dated within 30 days of application submission) of the following and any amendments on file with the Corporation and Land Development Bureau. a) Documentation of Federal 501(c)(3) or (4) status from the IRS (if applicable). b) Certified copy of the Articles of Incorporation dated within 30 days of application submission. c) Copy of by-laws ~~d)~~ An executed agreement between the sponsor and the non-profit if the project is a joint venture. e) Current Certificate of Good Standing dated within 30 days of application submission. 2) **HUD Form 2530 Previous Participation Certificate** must be submitted for the ownership entity and its officers.
	15	**Management Entity Experience** – A completed **HUD Form 2530 Previous Participation Certificate must be submitted** for the management entity. **In addition**, the **Management Agent Experience Form** on page 26 of the Primary Application **must be completed.**
	15a	**Management Agent Qualification Data** – A completed Management Agent Qualification Data Package is required for all management agents that have not previously been approved to manage MSHDA financed developments or have not updated their Qualification Data within the past three years. Agents that have updated their Qualification Data within the past three years need to submit a copy of their approval letter with this package.
	16	**Resumes** for all members of the development team. **Professional license** for the architect. A current **Michigan Residential Builders License** for the contractor.

EXHIBIT CHECKLIST

Addendum VI:

√	#	Section 8 and Section 202 Preservation Programs
	17	**Contractor's or Certified Construction Project Manager Qualification Statement** (AIA Document A305 - available from MSHDA upon request). In addition, **HUD Form 2530 Previous Participation Certificate** must be submitted for the contractor or construction project manager.
	18	**Financial Statements** for the sponsor(s) and builder. Individual sponsors must submit the form Individual Financial Statement (the form is available from MSHDA upon request). Financial statements must be current, which is defined as not more than six months earlier than the date the proposal is submitted. MSHDA requires that financial statements be updated every six months throughout the development and construction process.
	19	**Architects Errors and Omissions Professional Liability Insurance** – Include both the current certificate of insurance and a copy of the policy.
	20a	**Affirmative Fair Housing Marketing Plan** - See Tab P for AFHMP guidelines.
	20b	**Preliminary Equal Employment Opportunity Plan** – see Tab F for guidelines
	21	**Owner Architect Agreement** – Submit fully executed Legal Form 023. (TAB BB)
	22	**Capital Needs Assessment –** A 20 year Capital Needs Assessment (CNA) with itemized cost breakdown is required. A third party contracted by the Authority will do the CNA. The CNA will take approximately 60-85 days to complete from the time it is requested. Therefore, applicants may submit a request for the CNA to be ordered prior to the submission of the Combined Application together with funds to pay for the CNA ($5,000).
	23	**Schematics/Scope of Rehab.** – For rehabilitation projects, schematics and scope of work based on CNA and architects analysis of rehab needs. This information is needed as early as possible. A unit-by-unit matrix will be required when the scope of work is finalized. Provide a copy of the most recent REAC inspection, and any correspondence responding to that inspection. **SUBMIT WITH THIS APPICATION IF AVAILABLE. WILL BE REQUIRED DURING LOAN PROCESSING.**
	24	**Certification by Architect** – For rehabilitation projects, certification as to the completeness of rehab plans and specifications will be required at mortgage loan commitment. The certification should include language verifying that the plans and specs meet the needs identified under the CNA and architect's physical inspection of property. **SUBMIT WITH THIS APPLICATION IF AVAILABLE. WILL BE NEEDED PRIOR TO MORTGAGE LOAN COMMITMENT.**
	25a	**Trade Payment Breakdown** – If applicable. Submit on the MSHDA Trade Payment Breakdown Form (TAB AA)
	25b	**Other Construction Charges –** Describe, if any.
	26	**Proforma –** along with supporting income and expense data. The proforma must cover the term of the new loan and demonstrate the financial feasibility of the proposal.
	27	**Development Financial Statements** – Provide three years worth of audited financial statements that clearly set out the recent operating history of the development. Provide copies of all current subsidy contracts; and the currently approved rental structure and tenant-paid utility allowances.

EXHIBIT CHECKLIST

Addendum VI:

√	#	Section 8 and Section 202 Preservation Programs
	28	**Confirmation of Secondary Financing** - if applicable. Proposals which rely on some form of secondary financing to achieve feasibility must be accompanied by a detailed explanation and a confirmation from the source of that secondary financing that the additional funds have been applied for and are (or are expected to be) available.
	29	**Federal, State or Local Government Financing** - Letter from governmental body stating that application has been submitted and the amount requested, the terms of repayment, if any, and any conditions associated with funding.
	30	**Grants/Other Subsidies** – Letter from proposed grantor stating that application has been submitted and the amount requested, the terms of repayment, if any, and any conditions associated with funding,.
	31	**Letter of Intent and/or Syndication Partnership Agreement** – Submit a copy of the letter of intent and/or Syndication Partnership Agreement, including pay-in schedule, from the equity provider.

<u>Section 8/Section 202 Preservation – Tax-Exempt Bond Program</u>
August 24, 2005

MSHDA is offering tax-exempt preservation lending to extend the affordability, viability, and livability of existing Section 8 and Section 202 developments for a minimum of 35 years.

Loans will be provided based on the extent to which the following objectives are met:

- The rehabilitation addresses physical needs of the property, including those directly related to the enhancement of resident livability and functionality.
- The loan will be a long-term earning asset.
- The transaction uses the least amount of CDEF* loan necessary or contributes resources to the CDEF.
- The longest possible term of affordability is achieved.

The property is refinanced as part of a new MSHDA tax-exempt first mortgage based upon underwriting criteria described in this statement. Program participants will apply for and receive an award of Housing Tax Credit (4%) for all or most units occupied by residents with incomes at or below 60 percent of area median income.

Section 202 Preservation proposals will be considered and processed on a case-by-case basis. Processing and underwriting standards may vary from those described in this program statement.

To be eligible, proposals must satisfy all federal and state requirements for the use of private activity tax-exempt bond cap and the Housing Tax Credit.

I. <u>General Project Eligibility</u>

A. This program is available to all housing developments in Michigan with project-based Section 8 rental assistance. Developments containing a significant number of “efficiency” apartments are discouraged unless a strong current market is demonstrated or the proposal envisions reconfiguration of these units to more marketable unit types. For developments that were not previously financed by MSHDA, Authority staff will review the development’s operating history and conduct a walk-through of the property. Depending on the condition of the development, additional due diligence may be required.

B. All proposals must include rehabilitation in an amount that satisfies the 15 percent test of the Internal Revenue Code for the use of private activity bond cap. To be eligible for Housing Tax Credit, all proposals must include at least $5,000 per unit in hard construction costs and the proposed tax exempt financing must equal at least 51% of the total development costs. The development must comply with all existing Section 8 income and rent restrictions until the end of the HAP contract, and must seek and accept any available HAP extensions or comparable rental assistance.

C. In addition to meeting the minimum rehab test, MSHDA will evaluate the scope of rehabilitation with a focus on resident livability, energy efficiency, and long-term viability.

D. At a minimum, the proposal must provide for income and rent restrictions on 40 percent of the units, targeting those units to households with incomes at or below 60 percent of area median income. Except for developments specifically designated for elderly occupancy, the applicable percentage of each unit type must be targeted. It is expected that typical developments will target and claim Housing Tax Credit for 100% of the units. The mortgagor must agree to maintain the tenant income and rental restrictions described above until the later of 1) the Housing Tax Credit compliance period, 2) federal rental subsidies are available, or 3) the MSHDA term of affordability (35-50 years).

E. Involuntary permanent relocation of existing residents is not permitted under the program.

II. <u>Proposal Submission Requirements</u>

The Authority will require a 20-year Preservation Capital Needs Assessment (“CNA”) with an itemized cost breakdown. This assessment will be performed by a third party contracted by the Authority and will take approximately 60 to 90 days to complete from the time it is requested. Applicants who have already obtained a CNA on the subject property may submit a copy of the final report for review, but the Authority is not obligated to accept a sponsor-contracted CNA for underwriting purposes. Applicants may request a CNA be ordered prior to the submission of a full proposal. A CNA fee as determined by MSHDA must accompany this request or authorization must be obtained from the current project owner to pay the cost of the CNA from the project replacement reserve.

The Authority will also require a certified general appraisal to support the acquisition price of the property and an acceptable rent comparability study. (A note on rent comparability studies… Concerns noted with past rent comp studies include the overstatement of true market rents attainable at the subject property. This may be attributable to use of the rent comparability study to “mark up to market” when preparing the HUD 92273 Grid. Most Section 8 properties will not be functioning as “market” after rehabilitation and should not be treated as such. They will continue with rent and income restrictions. Additionally, appraisers must use appropriate adjustments for location and past history/perception. Conservative estimation of market rents is expected.)

Full submissions to MSHDA must include, without exception:

A. A completed MSHDA Combined Application for Rental Housing Programs. Developers should follow the “Addendum VI: Section 8/Section 202 Preservation Program” checklist contained within the Combined Application.

B. A non-refundable check for the Housing Tax Credit application fee and a non-refundable check for the preservation program application fee of $500 or $1000, depending on whether the project is currently in MSHDA's portfolio (which is in addition to any amounts previously paid to MSHDA to obtain a CNA).–

C. The 20-year Preservation Capital Needs Assessment and certified general appraisal, including an acceptable rent comparability study.

D. Information regarding the current residents of the development, including gross annual income as of the last recertification, rent currently paid, age, length of residency, and other demographics. (Information that would serve to identify specific residents must not be included.) Vacancy rates and turnover data for the past 2 years will also be required.

III. Loan Terms:

The Authority's loan must be secured by a first mortgage on the property. The loan will generally be comprised of two parts. "Part A" is the debt that can be supported by the rental income of the property, less vacancy loss, operating expenses, reserves, and escrows. The rents used to establish a "Part A" 35-year mortgage will be the current rents attainable in the market and approved by MSHDA's Chief Market Specialist, trended to the end of the existing Section 8 HAP contract. Trending of 1% per year will be typical.

A "Part B" loan, if any, will be established using the difference between the trended market rents and the trended Section 8 contract rents. The term of the "Part B" loan will equal the remaining term of the HAP contract.

"Part A" of the first mortgage will be underwritten at a fixed rate over a fully amortizing 35 year term and with a minimum of a 1.10 debt coverage ratio.

"Part B" of the first mortgage will be underwritten at a fixed rate over a fully amortizing term not to exceed the term remaining on the Section 8 HAP contract and with a 1.0 debt coverage ratio.

A. Prepayment: Part A of the new mortgage is not eligible for prepayment. After the 20th year, MSHDA, at its sole discretion may allow prepayment of the mortgage after consultation with the owner regarding the development's physical and financial needs. In the event MSHDA permits a prepayment, the mortgagor shall pay 1% prepayment penalty plus any bond call premium or prepayment penalty. Affordability restrictions must extend for the MSHDA mortgage term (35 years), or 50 years if a CDEF loan is provided.

B. Interest Rate: The rate is the greater of the 10-year Treasury rate plus 185 basis points or 5.0%. Interest rates are subject to periodic review of market conditions by the Authority and may be changed. The rate applicable to the project will be the rate effective on the date a completed application is received and the full application fee is paid and will not be subject to increase for 6 months. If a preservation proposal has not achieved authorization of mortgage loan within 6 months of the date of submission of the full proposal and MSHDA's rate of lending has increased, the currently applicable rate will be substituted for the rate at acceptance, unless extended by MSHDA for good cause. Typically MSHDA will bear the cost of any risk-sharing insurance, should it be required, within this rate. A loan origination fee of 2% of the mortgage amount will be collected at closing. The mortgage amount includes both "Part A" and "Part B."

C. CDEF Loan: In the event the Authority determines the transaction will not adequately address unmet physical needs, a CDEF loan may be available at 3% simple interest. Extended affordability to 50 years will be required and the CDEF loan will not be eligible for prepayment.

D. Risk-sharing Insurance: MSHDA reserves the right to require the submission of documents necessary to obtain HUD risk-sharing (50/50) insurance.

E. Limited Dividend Calculations: Typical limited dividend fees are limited to 12% of equity. For Pre-1980 developments, the equity upon which an L D is based will be increased to include the original equity plus the total principal payments made on the original loan. Post-1980 MSHDA developments and non-MSHDA financed developments will be limited based on HUD regulations. Returns will be non-cumulative.

IV. Underwriting Standards:

A. Replacement Reserve: The annual deposit to the replacement reserve in the first full year following the refinancing will not be less than $300 per unit. The required minimum initial deposit in the replacement reserve account will be the greater of $700 per unit, or the amount determined necessary to satisfy the requirements of the CNA.

B. Operating Assurance Reserve: A Preservation Operating Assurance Reserve (OAR) will be established equal to four months estimated operating expenses, payments required under the mortgage note, deposits to reserves and other anticipated development expenses.

This reserve, to assist in the transition to market rents, is to be fully funded by the anticipated end of the HAP, and will not be available prior to that date. MSHDA may allow a reduced initial deposit to the OAR as long as the initial deposit plus accumulated interest income equals the required deposit by the time the HAP expires.

If no CDEF loan is involved, the OAR will be released to the development's operating account after the expiration of the HAP and upon 24 months of stable operations and sustaining occupancy as determined by the MSHDA.

In loans with a CDEF component, the unutilized OAR will be returned to MSHDA in an amount not to exceed the outstanding balance of the CDEF loan, after the expiration of the HAP and upon 24 months of stable operations and sustaining occupancy as determined by the MSHDA.

In the event an operating deficit reserve is required, the OAR requirement may be waived.

C. One month's gross rent potential will be required to be deposited to the operating account of the development at closing.

D. **Vacancy Loss:** Vacancy loss will be budgeted based on the average annual rate for the past two years, but in no case less than 3%.

E. **CDEF Loan Terms:** CDEF loans will bear simple interest at 3%. Payments of interest only will be due monthly. In the event more than 40% of the developer fee is deferred, payments of interest may be deferred for a period of 15 years, but interest will continue to accrue. The entire balance will be due and payable at the end of the affordability term (50 years).

V. Other Requirements:

A. **HAP Extensions:** All developments must apply for and accept any available HAP or other HUD subsidy extensions, subject to MSHDA approval. Non-MSHDA developments must receive a 20-year Section 8 contract renewal as part of the application process. HUD approval of the ownership transfer will be a condition of commitment and closing.

B. **Contract Administration:** It is anticipated HUD will designate MSHDA as the contract administrator.

C. **Tax Abatement:** If underwriting requires tax abatement, documentation from the local unit of government must confirm its continuance for the 35-year term.

D. **Reserve Ownership:** Applicants must affirm MSHDA's ownership of excess reserves not otherwise controlled by HUD. Existing tax and insurance escrows will be transferred from the seller to the new owner or funded by the buyer.

E. **Development Team:** All members of the development team must meet MSHDA financial and technical capacity review. A licensed general contractor must be retained to carry out the rehabilitation work. Unless rehabilitation levels are determined by the Authority to be minimal, Authority staff will periodically inspect the progress of the rehabilitation and approve draws against the construction contract. Cost certification will be required of both the contractor and the mortgagor. Construction contract allowances for builder profit, overhead, and general requirements will be limited to 6%, 2%, and 6% respectively.

F. **Affirmative Marketing and EEO:** The management agent must submit an acceptable Affirmative Fair Housing Marketing Plan and the builder must submit an acceptable Equal Employment Opportunity Plan.

VI. The following section is applicable to previously MSHDA-financed developments:

A. **Level Debt Service:** Debt service on the new loan must equal or exceed the previous debt service, unless HUD approves a reduction.

B. **Trending projections:** MSHDA will use historical data to trend Section 8 rent increases until the current HAP expires. MSHDA will assume a 2% rental income increase after the projected HAP termination. Developments with projected operating deficits may be required to fund an operating deficit reserve through the 20th year of operation.

C. **Community Development Escrow Fund Loans:** MSHDA may loan funds from the CDEF (on Pre-1980 Developments) to fund the following:

i. One Months Gross Rent Potential
ii. The required Replacement Reserve Initial Deposit, up to $3,000 Per Unit

VII. **Application processing** (subject to necessary HUD approvals and timely submission of required documents):

A. **For current MSHDA developments:** A 6 month processing time from application to closing is anticipated, including the completion of a Preservation Comprehensive Needs Assessment.

B. **For non-MSHDA developments:** MSHDA will conduct a site visit and make a determination on acceptability of the proposal within 45 days of a preliminary application. Closing is anticipated within 6 months of receipt of a complete application.

C. **Closing Requirements:** Proposals must close within 90 days of MSHDA Board approval of the mortgage loan commitment on a date acceptable to the Authority. Owners must be "eligible mortgagors" under the Authority's Act and grant a first priority mortgage lien and security interest in the development to the Authority as security for the mortgage loan. All other terms and conditions of the preservation loan transaction will be set forth in the loan documents prepared by the Authority's Office of Legal Affairs.

For further information about MSHDA's tax-exempt Section 8 Preservation Program, please call Marjorie Green at (517) 373-9348 or greenmarj@michigan.gov Application information is available at www.michigan.gov/mshda.

*****The Authority created the Community Development Escrow Fund (CDEF) on January 28, 1998. The CDEF is funded from preservation fees received from Authority multi-family rental developments. The Board has acted to restrict the use of this fund. The fund is intended to operate as an endowment, with the earnings from the endowment used for designated purposes. Some categories of designated purposes are as follows: demolition, land acquisition and development, development of neighborhood service centers, capital improvements, and matching funds for community development. Grants are made only where the Authority determines that such grants will serve as a catalyst to improve the quality of housing, neighborhoods, or community services in a particular area, or to demonstrate new and innovative approaches to the problems of housing and community development. Grants will be repayable to the extent feasible. It was the Board's intent that these funds would be used primarily in support of current MSHDA housing investments.